

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDREW RUSSELL,

Plaintiff,

v.

DAREN FERDEN, et al.,

Defendants.

CASE No. 1:24-CV-599

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Green’s Report and Recommendation (ECF No. 67) and Plaintiff’s Objection to the Report and Recommendation (ECF No. 70). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the

Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds the Magistrate Judge's Report and Recommendation is factually sound and legally correct.

The Report and Recommendation addresses the pending defense motions and recommends the Court resolve the motions in a manner that dismisses all remaining claims and defendants in this case. In his objections, Plaintiff primarily reiterates and expands upon arguments already considered by the Magistrate Judge. The Magistrate Judge properly analyzed Plaintiff's claims. Nothing in Plaintiff's Objections changes the fundamental analysis. The Court agrees with the recommended disposition for the very reasons articulated by the Magistrate Judge.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 67) is **APPROVED AND ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss (ECF No. 10) is **GRANTED IN PART** and **DENIED IN PART**.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss (ECF No. 15) is **GRANTED IN PART** and **DENIED IN PART**.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (ECF No. 30) is **DENIED**.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss (ECF No. 37) is **GRANTED**.

IT IS FURTHER ORDERED that Defendant's Motion to Clarify (ECF No. 18) is **DISMISSED AS MOOT**.

IT IS FURTHER ORDERED that Plaintiff's Motions for Orders (ECF Nos. 56, 63 and 64) are **DISMISSED AS MOOT**.

The Court discerns no good-faith basis for appeal of this matter. *See McGore v. Wigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997); 28 U.S.C. § 1915(a)(3).

This case is **CLOSED**. A separate Judgment shall issue.

Dated: December 12, 2024

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE